IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 18028 of 2007(U)

AGAINST THE ORDER IN EP 453/2005 IN
OS.860/2001 of II ADDL.SUB COURT,THRISSUR

.....

PETITIONER:

E.D.ANTONY, AGED 54 YEARS,
S/O. IRIMBAN DEVASSY, MUKKATTUKARA DESOM,
NETTISSERY VILLAGE, THRISSUR.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS:

N.L.VARGHESE, S/O. NAYANKARA LONAPPAN,
NELLANKARA DESOM, NETTISSERY VILLAGE,
THRISSUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 18028 OF 2007 U

Dated this the 13th June, 2007.

JUDGMENT

This writ petition is filed to stay all proceedings in E.P.45/05 in O.S.860/01 before the II Additional Sub Court, Thrissur until the disposal of C.M.A.149/06 pending before the District Court, Thrissur. The writ petitioner in the case has suffered a decree in a suit for realisation of money and according to the learned counsel for the petitioner he was set ex parte and an ex parte decree has been passed and he has preferred a C.M.A before the District Court for setting aside the ex parte decree and that breathing time may be given and execution may be stalled till the disposal of the C.M.A. Since it is an ex parte decree and the writ petitioner is earnestly prosecuting to get remedies, it is only just and appropriate to grant him breathing time. Therefore, the writ petition is disposed of and the II Additional Subordinate Judge, Thrissur is directed not to proceed further with the execution proceedings in E.P.453/05 and the District Judge, Thrissur is directed to dispose of the C.M.A within a time frame of six weeks from today.

The Registry is directed to communicate this order both to the Additional Sub Judge as well as the District Judge, Thrissur.

M.N.KRISHNAN
Judge

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